



Howard Friedman
General Counsel

September 3, 2019

VIA EMAIL

Hugo Smith
MuckRock
60923-79609982@requests.muckrock.com

RE: #F14,997

Escalators at Stuyvesant High School

Dear Mr. Smith:

I am writing in response to your letter dated August 16, 2019, and received by this office on August 19, 2019, in which you appeal the alleged improper denial of access to records you requested in the above-referenced Freedom of Information Law ("FOIL") request.

By email dated September 15, 2018, you submitted a FOIL request for:

All emails, memorandums, documents, maintenance requests, and text messages regarding the escalators at Stuyvesant High School (345 Chambers Street, New York, New York) between 8/1/18 and 9/15/18.

. . . any other documents regarding the safety, and concerns about the safety, of the escalators at Stuyvesant High School created, responded to, or edited between 8/1/18 and 9/15/18.

Consistent with Public Officers Law § 89(3)(a) and Chancellor's Regulation D-110(VI)(A), the DOE's Records Access Officer ("RAO") acknowledged your FOIL request within five business days and assigned it FOIL reference number F14,997. By letter dated October 22, 2018, the RAO informed you that the portion of your request seeking emails and text messages was not reasonably described pursuant to Public Officers Law § 89(3)(a). You were informed that a request reasonably describes records when the description provides sufficient ability, with reasonable effort, to launch an effective search to locate and identify the records sought and that here, an effective search could not be completed because you failed to provide the names or job titles of those whose records you seek. You were informed that a failure to provide a clarification to your request by November 26, 2018 would deem that portion of your request withdrawn. As the FOIL Unit did not locate a clarification from you at that time, this portion of your request was deemed withdrawn.

By letters dated November 27, 2018, February 26, 2019 and March 13, 2019, you were informed that that additional time was needed to respond to your request.

By letter dated July 24, 2019, and received by this office on July 29, 2019, you appealed the alleged constructive denial of your request.

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By letter dated August 9, 2019, the RAO provided you with a final response to your request along with records responsive to your request.

On August 12, 2019, your appeal based on constructive denial was denied as moot in light of the August 9 final response to your request.

I have been advised that on August 19, 2019, the FOIL Unit received your letter dated August 16, 2019, in which you appeal the alleged improper denial of access to correspondence records. In your letter, you state in pertinent part, *"my request was partially fulfilled; however part of my request was for 'all emails...regarding the escalators at Stuyvesant High School (345 Chambers Street, New York, New York) between 8/1/18 and 9/15/18.' I later narrowed this to emails from/to Eric Contreras, Brian Moran, and/or maintenance or janitorial staff. I did not receive any emails, so I am appealing this portion of the response."*¹

I am informed by members of the FOIL Unit that they have been unable to locate the clarification that you reference, but that they began to process it soon after your August 16 appeal was received. Accordingly, I hereby direct the FOIL Unit to expedite processing the correspondence portion of your request, and to provide any responsive, non-exempt records as expeditiously as possible.

Sincerely,



Toni Gantz
Executive Deputy Counsel

CC: Howard Friedman
Joseph A. Baranello
Committee on Open Government

¹ It appears you may have sent similar correspondence dated August 11, 2019, wherein you appealed the final response issued on August 9, 2019. The FOIL Unit became aware of this August 11 correspondence upon receipt of your letter dated August 16, 2019, which contained the correspondence dated August 11.